

1300 Pennsylvania Avenue NW
Washington, DC 20229



**U.S. Customs and
Border Protection**
DIS-2:OT:CTE:FD PH
2011F13090

August 3, 2011

Melissa Crow
Director, Legal Action Center
American Immigration Council
1331 G Street NW, Suite 200
Washington, DC 20005

Dear Ms. Crow:

This is a partial response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP). You requested the following information:

1. How DHS and/or CBP agents decide to stop, arrest and/or detain individuals believed to be present in the United States in violation of the immigration laws.
2. Guidance, guidelines, directives, rules, policies, procedures or other documents that address questioning of individuals apprehended by DHS and/or CBP agents.
3. Criteria or other standards used by DHS and/or CBP agents to determine whether individuals they have apprehended are eligible for voluntary return.
4. Guidance, guidelines, directives, rules, policies, procedures or other documents that address means of determining that individuals apprehended by DHS and/or CBP agents knowingly and voluntarily consent to voluntary return and knowingly and voluntarily waive their right to a hearing before an immigration judge and/or to any immigration relief for which they may be eligible.
5. Guidance, guidelines, directives, rules, policies, procedures, instructions, memoranda or other documents regarding an agent's use of coercive tactics, including but not limited to the actual or threatened use of violence, sexual assault, and/or retaliation against family members to persuade individuals apprehended by DHS and/or CBP to accept voluntary return.
6. ~~Any other guidance, guidelines, directives, rules, policies, procedures or other documents that~~ address processing of individuals apprehended by CBP for voluntary return in lieu of removal.
7. Guidance, guidelines, directives, rules, policies, procedures, or other documents that address means of ensuring that individuals who have signed Form I-826, Notice of Rights and Request for Disposition, depart from the United States.
8. Agreements, correspondence, or communications within and/or among CBP, DHS, any of their agents, agencies, sub-agencies, or offices, and/or U.S. Attorneys' Offices regarding the use of voluntary return in lieu of removal.
9. Training materials used to educate CBP agents about the use of voluntary return in lieu of removal.

10. From January 2009 to April 2011, the total number of voluntary returns of individuals to their countries of origin, the nationalities of individuals who agreed to voluntary return, and, if available, the number of voluntary returns per month.
11. Complaints, correspondence, communications, or other documents from any individual or entity regarding alleged misconduct by DHS or CBP agents within 100 miles of the U.S.-Mexico border, including but not limited to documents relating to the alleged mistreatment of any individual while in CBP custody.
12. Complaints, correspondence, communications, or other documents from any individual or entity regarding alleged use of coercive tactics by DHS or CBP agents within 100 miles of the U.S.-Mexico border, including but not limited to the actual or threatened use of violence, sexual assault, and/or retaliation against family members to persuade individuals apprehended by DHS and/or CBP to accept voluntary return.
13. Memoranda, reports, correspondence, communications, or other documents regarding investigations undertaken by DHS, CBP, or another government agency regarding alleged misconduct by DHS or CBP agents within 100 miles of the U.S.-Mexico border, including but not limited to documents relating to the alleged mistreatment of any individual while in CBP custody.
14. Memoranda, reports, correspondence, communications, or other documents regarding investigations undertaken by DHS, CBP, or another government agency regarding alleged use of coercive tactics by DHS or CBP agents within 100 miles of the U.S.-Mexico border, including but not limited to the actual or threatened use of violence, sexual assault, and/or retaliation against family members to persuade individuals apprehended by DHS and/or CBP to accept voluntary return.

Please note that we will be unable to respond to parts 11 through 14 of your request as currently constructed. The term "misconduct" as used by CBP applies to all incidents that are a violation of the rules and regulations of CBP; you will need to be more specific as to the type of misconduct you are interested in. Further, please note that reports are primarily retrieved via name, date of birth, SSN or other personal identifiers specific to the employee. We are unable to pull statistical information such as "allegations of coercive tactics by agents". Please also note that these reports are not sorted by title; we can not request "all Border Patrol Agent reports".

At this time, parts 11 through 14 of your request are considered unperfected. If you do have the names of individuals involved in these reports, you will need to provide written consent from those individuals for us to release records, per third party privacy laws.

CBP is including four pages of records responsive to your request in this response. CBP has determined that three pages of records are fully releasable and responsive to part 10 of your request. We have also included one additional page with limited redactions, pursuant to Title 5 U.S.C. § 552 (b)(6) and (b)(7)(C).

Exemption (b)(6) exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. [*The types of documents and/or*

information that we have withheld may consist of birth certificates, naturalization certificates, driver license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.] The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

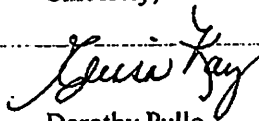
Exemption (b)(7)(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate.

You have a right to appeal our withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 799 Ninth Street, NW, 5th Floor, Washington, DC 20229-1179, following the procedures outlined in the DHS regulations at Title 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call (877) 684-6448.

This office may be reached at (202) 325-0150. Please notate file number 2011F13090 on any future correspondence to CBP related to this request.

Sincerely,



Dorothy Pullo
Director, FOIA Division
Office of International Trade

Enclosure(s)

1300 Pennsylvania Avenue NW
Washington, DC 20229

OBP 10.9-C



**U.S. Customs and
Border Protection**

JUN 17 2009

MEMORANDUM FOR: All Chief Patrol Agents
All Division Chiefs

FROM:

G David V. Aguilar
Chief
U.S. Border Patrol

(b)(6),(b)(7)(C)

SUBJECT: Juvenile Processing Guidance

The U.S. Border Patrol takes great strides to ensure that all subjects are adequately cared for while in our custody and that all juveniles, including unaccompanied alien children, are treated with dignity, respect, and special concern for their particular vulnerabilities. The Border Patrol currently processes, detains, and cares for juveniles, including unaccompanied alien children, based upon guidelines and requirements set forth in the 1997 *Flores v. Reno* Settlement Agreement, the Homeland Security Act of 2002, the Border Patrol Hold Room and Short Term Detention Policy, the Trafficking Victim's Protection Reauthorization Act of 2008 Interim Guidance, and Customs and Border Protection Form 93 "Unaccompanied Alien Child Screening Addendum."

Agents must familiarize themselves with these policies and procedures. Adherence to these guidelines will safeguard the welfare of juveniles and ensure processing efficiency.

Timely and accurate recording of juvenile apprehension, processing, and detention are critical to mission success. Supervisors shall review and approve processing forms and juvenile disposition prior to transfer or removal. As indicated in the Border Patrol Handbook, Chapter 22, Preparation and Distribution of Forms and Reports, "Border Patrol Agents are responsible for the accuracy of any forms or reports they submit. Supervisors are accountable for any reports or forms they forward, regardless of whether their signature or initials are required."

Chief Patrol Agents will ensure that agents under their purview comply with these instructions.

Staff may direct questions to Assistant Chief (b)(6),(b)(7)(C) or Operations Officer (b)(6),(b)(7)(C)

U.S. Border Patrol Voluntary Returns**January 2009 - April 2011***Data includes Deportable Aliens Only*

Data Source: EID (unofficial) as of 7/14/11

	FY2009								
CITIZENSHIP	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
CANADA	7	20	10	16	22	54	84	65	38
CHINA, PEOPLES REPUBLIC OF					1				
DOMINICAN REPUBLIC	10		3	2	1	3	2	3	1
MEXICO	31,456	34,072	50,025	42,744	34,743	30,911	28,381	27,562	22,312
Grand Total	31,473	34,092	50,038	42,762	34,767	30,968	28,467	27,568	22,351

	FY2010											
CITIZENSHIP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
CANADA	8	13	4	13	28	24	15	32	81	170	110	20
CHINA, PEOPLES REPUBLIC OF				1	2							
DOMINICAN REPUBLIC	1	9				11	2	3		2	13	16
MEXICO	26,205	19,315	13,682	20,730	27,838	41,314	35,826	28,588	18,579	14,126	11,621	9,756
Grand Total	26,213	19,327	13,686	20,741	27,866	41,329	35,841	28,623	18,660	14,128	11,634	9,776

CITIZENSHIP	FY2011							JAN 09 - APR 11
	OCT	NOV	DEC	JAN	FEB	MAR	APR	
CANADA	12	13	2	7	3	15	5	55
CHINA, PEOPLES REPUBLIC OF		2				1		3
DOMINICAN REPUBLIC	13	12	8	12	3	16	8	54
MEXICO	10,892	8,720	7,898	11,540	13,469	22,654	17,526	56,245
Grand Total	10,904	8,733	7,900	11,547	13,472	22,669	17,531	56,257